

IT IS ORDERED as set forth below:

Date: June 16, 2022



Useful for

Lisa Ritchey Craig
U.S. Bankruptcy Court Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:

BU YONG KIM,

Debtor.

CHAPTER 7

CASE NO. 19-62423-LRC

JASON L. PETTIE, Chapter 7 Trustee for the
Bankruptcy Estate of Bu Yong Kim,

Movant,

V.

CONTESTED MATTER

UNITED WHOLESALE MORTGAGE and
NATIONSTAR MORTGAGE, LLC d/b/a
MR. COOPER,
GWINNETT COUNTY TAX COMMISSIONER,
HANNA KIM, and
BU YONG KIM,

Respondents.

CONSENT ORDER GRANTING TRUSTEE’S MOTION FOR AN ORDER (A) APPROVING AN AGREEMENT BETWEEN TRUSTEE AND THE NON-FILING CO-OWNER AND (B) AUTHORIZING (I) THE SALE OF PROPERTY OF THE BANKRUPTCY ESTATE FREE AND CLEAR OF ALL LIENS, INTERESTS, AND ENCUMBRANCES AND (II) DISBURSEMENT OF CERTAIN PROCEEDS AT CLOSING

On May 10, 2022, Jason L. Pettie, as Chapter 7 Trustee (“**Trustee**”) for the bankruptcy estate (the “**Bankruptcy Estate**”) of Bu Yong Kim (“**Debtor**”), filed *Trustee’s Motion for an Order (A) Approving An Agreement Between Trustee and Non-Filing Co-Owner and (B) Authorizing (I) the Sale of Property of the Bankruptcy Estate Free and Clear of Liens, Interests, and Encumbrances and (II) Disbursement of Certain Proceeds at Closing* [Doc. No. 37] (the “**Sale and Settlement Motion**”), seeking among other things, an Order from the Court: (a) approving an agreement between Trustee and the non-filing co-owner, Hannah Kim (“**Mrs. Kim**”), whereby Mrs. Kim has agreed to have the Trustee sell that certain real property known generally as 51 Ludwick Lane, Lawrenceville, Gwinnett County, Georgia 30046 (the “**Property**”) and waived the requirements of 11 U.S.C. § 363(h) that Trustee proceed by adversary proceeding in order to obtain such a court approved sale (the “**Agreement**”), pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure; and (b) authorizing the sale of the Property, pursuant to 11 U.S.C. §§ 363(b), (f), and (m), and Fed. R. Bankr. P. 2002(a)(2), 6004(a), 6004(c), and 9014, to Stacy Liang and Hui Ping Guan (the “**Purchasers**”), “as is, where is,” for the sale price of \$370,650.00 (the “**Purchase Price**”), subject to bankruptcy court approval (the “**Contract**”). Copies of the Agreement and the Contract are attached to the Sale and Settlement Motion as Exhibit “A” and Exhibit “B,” respectively.

Also on May 10, 2022, Trustee filed *Notice of Trustee’s Motion for an Order (A) Approving An Agreement Between Trustee and Non-Filing Co-Owner and (B) Authorizing (I) the Sale of Property of the Bankruptcy Estate Free and Clear of Liens, Interests, and Encumbrances*

and (II) Disbursement of Certain Proceeds at Closing; Deadline to Object; and for Hearing [Doc. No. 38] (the “**Notice**”) regarding the Sale Motion, in accordance with the Second Amended and Restated General Order No. 24-2018. Counsel for Trustee certifies that he served the Notice on all requisite parties in interest on May 10, 2022 [Doc. No. 39].

United Wholesale Mortgage and Nationstar Mortgage, LLC d/b/a Mr. Cooper (“**Nationstar**”) filed a *Response and Objection* [Doc. No. 40] on May 31, 2022 and *Amended Response and Objection* [Doc. No. 41] (together, the “**Response**”) objecting to the disbursement of any of the sale proceeds realized from the sale of Mrs. Kim’s undivided one-half interest in the Property and to the preservation of sufficient sale proceeds to pay Nationstar in full, including accruing interest, penalties, and fees pending the final adjudication of the Adversary Proceeding, Case No. 20-06024-LRC (the “**Adversary Proceeding**”).

No other creditor or party in interest filed an objection to the relief requested in the Sale and Settlement Motion.

Trustee and Nationstar have agreed that (a) the proposed sale may go forward; (b) Nationstar will accept payment at closing of one-half of the Nationstar Payoff¹ in the amount of \$76,756.64, representing sale proceeds resulting from the sale of Mrs. Kim’s undivided one-half interest in the Property; (c) Trustee will hold (i) the other one-half of the Nationstar Payoff, representing the sale proceeds resulting from the sale of the Bankruptcy Estate’s one-half interest in the Property, and (ii) Debtor’s Homestead Exemption² pending final resolution of the

¹ Nationstar provided a loan payoff statement good through the closing date of June 17, 2022 in the amount of \$153,513.27 (the “**Nationstar Payoff**”).

² Capitalized terms not defined in this Order shall have the meanings ascribed to them in the Sale and Settlement Motion.

Adversary Proceeding; and (d) Mrs. Kim will be paid at closing one-half of the Net Sale Proceeds.³

Having considered the Sale and Settlement Motion and no other creditors or parties in interest having objected to the relief requested in the Sale and Settlement Motion; and Trustee and Nationstar having consent to the entry of this Order; and for good cause shown, it is hereby

ORDERED that the Sale and Settlement Motion is **GRANTED**. It is further

ORDERED that the Agreement and Contract are **APPROVED** and their terms are incorporated into this Order. It is further

ORDERED that Trustee is authorized and directed to take any and all actions necessary or appropriate to (a) consummate the Sale of the Property to Purchasers and perform under the terms of the Contract and Agreement; (b) execute, perform, consummate, implement, and close fully the Sale together with all additional instruments and documents that may be reasonably necessary; and (c) execute and perform all of the obligations of Trustee under the Contract or Agreement. It is further

ORDERED that this Order shall be binding upon all creditors (whether known or unknown) of Debtor, Mrs. Kim, Purchasers, Trustee, the Bankruptcy Estate, and their respective successors, assigns, affiliates, and subsidiaries. It is further

ORDERED that upon consummation of the closing of the Sale, the Property shall be transferred and assigned to Purchasers free and clear of all liens, claims, interests, and encumbrances with all unpaid, valid, and enforceable liens, claims, interests, or encumbrances

³ As reflected in the Sale and Settlement Motion, Net Sale Proceeds represents, all gross proceeds of the sale less any outstanding *ad valorem* real property taxes and the pro-rated share of 2022 *ad valorem* real property taxes, the Nationstar Payoff capital gains taxes (if any), any water and sewer liens, real estate commissioner, all routine closing costs, and all costs necessary to close the sale of the Property.

attaching to the Sale proceeds with the same extent, validity, and priority that they held in the Property. It is further

ORDERED that the Sale of the Property to the Purchasers is “as is,” “where is,” and without representation or warranty, express or implied, from Trustee. It is further

ORDERED that the transactions contemplated by the Contract and this Order are undertaken by the Purchasers in good faith, as that term is used in Section 363(m) of the Bankruptcy Code, and accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the Sale of the Property shall not affect the validity of the Sale to the Purchasers, unless such authorization is duly stayed pending such appeal. The Purchasers are purchasers in good faith of the Property, and they are entitled to all the protections afforded by Section 363(m) of the Bankruptcy Code. It is further

ORDERED that, under Fed. R. Bankr. P. 6004(h), this Order shall be effective and enforceable immediately upon entry, and its provisions shall be self-executing. In the absence of any person or entity obtaining a stay pending appeal, Trustee and Purchasers are free to close the Sale of the Property at any time, at which time the gross sales proceeds shall be paid to Trustee pursuant to this Order, and those disbursements requested by the Trustee in his Sale and Settlement Motion are authorized to be made with the exception of Debtor’s Homestead Exemption, including but not limited to, payment to: (a) Nationstar from the proceeds resulting from the sale of Mrs. Kim’s one-half interest in the Property in the amount of \$76,756.64, and (b) payment to Mrs. Kim of one-half of the Net Sale Proceeds resulting from the sale of Mrs. Kim’s one-half interest in the Property. It is further

ORDERED that Trustee is authorized and directed to hold in his fiduciary account the other one-half of the Nationstar Payoff and Debtor’s Homestead Exemption pending final

resolution of the Adversary Proceeding. It is further

ORDERED that this Court retains exclusive jurisdiction over any action relating to, based upon, or arising from disputes or controversies relating to or concerning the Sale, the Contract, the Agreement, or this Order.

[END OF DOCUMENT]

Order prepared and presented by:

ARNALL GOLDEN GREGORY LLP
Attorneys for Chapter 7 Trustee

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Consented to by:

WEISSMAN PC
*Attorneys for United Wholesale Mortgage and
Nationstar Mortgage, LLC d/b/a Mr. Cooper*

By: /s/ E. J. Inyang
E.J. Inyang (Signed by Michael J. Bargar with “express permission”)
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Identification of parties to be served:

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Jason L. Pettie, Chapter 7 Trustee, Post Office Box 17936, Atlanta, GA 30316-0936

United Wholesale Mortgage and Nationstar Mortgage, LLC d/b/a Mr. Cooper, c/o E.J. Inyang, Weissman PC, 4th Floor, One Alliance Center, 3500 Lenox Road, Atlanta, GA 30326

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Nationstar Mortgage, LLC d/b/a Mr. Cooper, c/o Lisa F. Caplan, Esq. Rubin, Lublin, LLC, 3145 Avalon Ridge Place, Suite 100, Peachtree Corners, GA 30071

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United Wholesale Mortgage, c/o Jeffrey A. Ishbia, it's Registered Agent, 251 Merrill Street, 2nd Floor, Birmingham, MI 48009

Jay Bray, President and CEO, Nationstar Mortgage, LLC d/b/a Mr. Cooper, 8950 Cypress Waters Boulevard, Dallas, TX 75019

Nationstar Mortgage LLC d/b/a Mr. Cooper, c/o Corporation Service Company, its Registered Agent, 40 Technology Parkway South, Suite 300, Norcross, GA 30092

Tiffany P. Porter, Gwinnett County Tax Commissioner, 75 Langley Drive, Lawrenceville, GA 30046

Hannah Kim, 51 Ludwick Lane, Lawrenceville, GA 30046

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Bu Yong Kim, 51 Ludwick Lane, Lawrenceville, GA 30046

Michael Campbell, Attention: Denise Hammock, Campbell & Brannon, LLC, 5565 Glenridge Connector, Suite 350, Atlanta, GA 30342